



Comptroller General
of the United States

Washington, D.C. 20548

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Decision

Matter of: Captain Gordon L. Chapell, USAF - Claim for Reinstatement of Consecutive Overseas Tour Leave

File: B-256711

Date: September 22, 1994

DIGEST

An Air Force member being transferred from Germany to Hawaii obtained permission to defer his consecutive overseas tour (COT) leave entitlement, which authorizes payment of travel and transportation allowances for a member and his family while in a leave status. However, when he and his dependents traversed the United States during his permanent change of station move, they visited both his family and his wife's family and used 11 days of leave. Although the member intended to defer his COT leave, finance officers computed his travel and transportation allowances to reflect his having taken COT leave when he took leave for those visits. Since the member complied with the Joint Federal Travel Regulations, his claim for reinstatement of his COT leave may be allowed.

DECISION

This is in response to an appeal of a Claims Group settlement which denied the claim of Captain Gordon L. Chapell, USAF, for reinstatement of his Consecutive Overseas Tour (COT) leave entitlement incident to a permanent change of station (PCS) move in January 1993. This entitlement authorizes paying travel and transportation allowances for a member and his family's travel while in a leave status in connection with consecutive tours of overseas duty. His claim is allowed.

Captain Chapell was transferred from Geilenkirchen Air Base, Germany, to Wheeler Air Force Base, Hawaii. Captain Chapell's orders authorized deferral of his COT leave. He and his family left Germany on December 31, 1992. They flew to Memphis, Tennessee, Captain Chapell's home of record, and remained there for 6 days. From Memphis they drove to Dallas, Texas, Captain Chapell's wife's home of record, and remained there 5 days. They arrived in Hawaii on January 15, 1993. He was charged leave for his excess travel time.

Air Force finance officers contend that since he used a substantial amount of leave and deviated from the normal travel route for crossing the United States, he used his deferred COT leave entitlement. Hence, they computed Captain Chapell's travel and transportation allowances as if he and his family had taken COT leave before he reported to his new duty station in Hawaii. Our Claims Group agreed with this disposition.

Captain Chapell states that he did not intend the leave he used at that time be COT leave. He therefore claims reinstatement of his to COT leave entitlement. In support of his position, he cites a June 1992 Air Force message which states that when a member who has been authorized deferred COT leave takes leave of less than 14 days en route for rest and respite he will not lose his deferred COT leave entitlement.

Section 411b of title 37, United States Code, provides that under regulations prescribed by the Secretaries concerned a member who is ordered to perform consecutive overseas tours of duty may be paid travel and transportation allowances for himself and his dependents in connection with authorized leave from his last duty station to his home of record or to another approved location and from there to his new duty station. The statute also authorizes, under the regulations, deferral of this entitlement for up to one year.

The above statute is implemented by volume 1 of the Joint Federal Travel Regulations (JFTR), paragraph U7200. The regulations specify that COT leave is intended to be performed between the consecutive tours, but may be deferred. However, a distinction is made between a member who must traverse the United States to complete his PCS and one who does not. If the member must traverse the United States, COT leave can be deferred only with prior authorization or approval.

In August 1992 Captain Chapell obtained the approval of his commander to defer his COT leave. While he and his family spent time at both his home of record and his wife's home of record, he believed that this leave did not constitute COT leave because his COT leave had been deferred and because the Air Force message cited above indicated that a member with deferred COT leave could take 13 days leave for rest and respite without losing his entitlement to deferred COT leave.

We have been informally advised that the Air Force message, indicating that almost 2 weeks of leave maybe used without affecting the member's COT leave entitlement, differs from the practices of the other services. It is our view that a

uniform policy concerning leave usage in these situations should be established which implements the purpose of the law and provides a reasonable accommodation for the member while performing change-of-station travel. In this case, Captain Chapell visited his and his wife's home of record (the purpose for which COT leave was intended) while traveling to his new duty station and still has COT leave entitlement for a subsequent trip.

Notwithstanding the above, it is our view that Captain Chapell is entitled to reinstatement of his COT leave entitlement because his travel was fully in accordance with JFTR in effect at the time; that is, he secured approval to defer the entitlement, and the regulations are silent regarding a situation where a member uses leave while traveling to his new duty station. However, as the record indicates his change-of-station travel allowances from Germany to Hawaii should be recalculated based on direct travel to Hawaii and the difference should be recouped from the member.

Accordingly, the claim may be allowed.

Robert P. Murphy
Acting General Counsel

Date:

To: Director, Claims Group/GGD - Sharon S. Green

From: Acting General Counsel - Robert P. Murphy

Subject: Captain Gordon L. Chapell, USAF - Claim for
Reinstatement of Consecutive Overseas Tour Leave -
Z-2868435 (B-256711)

Attached is your file Z-2868435 along with a copy of our
decision overruling your settlement in the above matter.

Attachments